

**ORDINANCE NO. \_\_-\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALHAMBRA, CALIFORNIA, PROTECTING PUBLIC HEALTH AND SAFETY AND CITY PROPERTY WITH RESPECT TO CONTROL OF DISCHARGES AND POLLUTANTS AND THE PROHIBITION OF ILLICIT DISCHARGES AND ILLICIT CONNECTIONS TO THE MUNICIPAL SEPARATE STORM SEWER SYSTEM BY AMENDING THE ALHAMBRA MUNICIPAL CODE TO ADD NEW CHAPTER 16.34 "STORM WATER AND URBAN RUNOFF POLLUTION CONTROL"**

**WHEREAS**, The 1972 amendments to the Federal Water Pollution Control Act (referred to as the Clean Water Act or "CWA"), 33 U.S.C. §§ 1251-1387, prohibit the discharge of any Pollutant to navigable waters of the United States from a point source unless the discharge is authorized by a permit issued pursuant to the National Pollutant Discharge Elimination System ("NPDES") required by CWA § 402, 33 U.S.C. §§ 1342; and

**WHEREAS**, Municipal separate storm sewer systems ("MS4s") which convey urban runoff, including, but not limited to Storm Water runoff, are within the definition of point sources under the CWA; and

**WHEREAS**, Pursuant to the CWA, the United States Environmental Protection Agency ("US EPA") has defined the term "Municipal separate storm sewer system" to mean a conveyance, or system of conveyances, including roads with drainage systems, municipal streets, curbs, gutters, catch basins, and storm drains owned or operated by a city, used for collecting Storm Water; and

**WHEREAS**, The US EPA, under the National Urban Runoff Program ("NURP") has funded and guided studies of water quality from MS4s which drain residential, commercial and light industrial sites; and

**WHEREAS**, NURP and other studies (cited at, among other places, 55 Fed.Reg. 47900) demonstrate the presence of Pollutants in urban runoff discharged to receiving waters through MS4 systems; and

**WHEREAS**, The US EPA reports that in some municipalities illicit connections of sanitary, commercial and industrial discharges to storm sewer systems have had a significant adverse impact on the water quality of receiving waters; and

**WHEREAS**, CWA § 402(p) requires that the City obtain a permit for Storm Water and urban discharges through the City's MS4; and

**WHEREAS**, Pursuant to the CWA, the US EPA has defined "illicit discharges" to describe any discharge through a MS4 that is not covered by a NPDES permit and illicit discharges to MS4s are not authorized under the CWA; and

**WHEREAS**, Section 402(p)(3)(B) of the CWA requires that NPDES permits for discharges from MS4s are to include a requirement to "effectively prohibit" non-Storm Water discharges into MS4s; and

**WHEREAS**, Section 402(p)(3)(B) of the CWA further provides that NPDES permits shall require controls to reduce the discharge of Pollutants to the maximum extent practicable, including management practices and such other provisions as appropriate for the control of Pollutants; and

**WHEREAS**, US EPA regulations implementing the CWA require the City to demonstrate that it has the legal authority to control, through ordinance or other authority, contribution of Pollutants to the MS4 by Storm Water discharged from sites of industrial activity; and

**WHEREAS**, US EPA regulations implementing the CWA require the City to demonstrate that it has the authority to prohibit illicit discharges to the MS4; and

**WHEREAS**, US EPA regulations implementing the CWA require the City to demonstrate that it has the authority to control, through ordinance or other authority, discharge to the MS4 of spills, dumping or disposal of materials other than Storm Water; and

**WHEREAS**, The City, as the owner and operator of its MS4, has the right and the duty to protect the integrity of its MS4 against Pollutants and contamination; and

**WHEREAS**, The City has authority under the California Water Code to adopt and enforce ordinances imposing conditions, restrictions and limitations with respect to any activity which might degrade the quality of waters of the state; and

**WHEREAS**, Under the California Constitution and the California Government Code, the City has the authority to define public nuisances and to protect the public health and safety of the residents of and visitors to the City, and the environment, by abating public nuisances; and

**WHEREAS**, The City Council is obligated to take prudent steps to protect the City's property and its funds and taxpayers from exposure to liability, including the potentially enormous costs of litigation regarding natural resources allegedly damaged by Pollutants allegedly transported through the City's MS4.

**THE CITY COUNCIL OF THE CITY OF ALHAMBRA DOES HEREBY ORDAIN  
AS FOLLOWS:**

**SECTION 1.** In order to protect public health, safety and well-being; to carry out obligations imposed on it by the Congress through the Clean Water Act; to "effectively prohibit" non-Storm Water discharges from MS4s; to demonstrate that the City has the authority to control, through ordinance or other authority, contribution of Pollutants to the MS4 by Storm Water discharged from sites of industrial activity; to demonstrate that the City has the authority to prohibit illicit discharges to the MS4; to demonstrate that the City has the authority to control, through ordinance or other authority, discharge to the MS4 of spills, dumping or disposal of materials other than Storm Water; Title 6 of the Alhambra Municipal Code is hereby amended to add Chapter 16.34, "STORM WATER AND URBAN RUNOFF POLLUTION CONTROL," to read in its entirety as follows:

**"Chapter 16.34**

**STORM WATER AND URBAN RUNOFF POLLUTION CONTROL**

Sections:

16.34.010	DEFINITIONS.
16.34.020	CONTROL OF POLLUTANTS AND ILLICIT DISCHARGES.
16.34.030	BEST MANAGEMENT PRACTICES.
16.34.040	CONSTRUCTION STORM WATER MEASURES.
16.34.050	VIOLATION, INSPECTION, ENFORCEMENT.
16.34.060	FEEES

**16.34.010                      Definitions.**

For the purposes of this Chapter the following words and phrases shall have the meanings respectively ascribed to them by this Chapter. Words and phrases not ascribed a meaning by this Chapter shall have the meanings ascribed by the regulations implementing the National Pollutant Discharge Elimination System, Clean Water Act § 402, and Division 7 of the California Water Code, as they may be amended from time to time, if defined therein, and if not, to the definitions in an applicable permit issued by the California Regional Water Quality Control Board - Los Angeles, as such permits may be amended from time to time.

**Best Management Practices or BMPs** shall mean schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce Pollutants in discharges. BMPs include, but are not limited to, public education and outreach, proper planning of development projects, proper clean-out of catch basins, and proper waste handling and disposal.

Discharge shall mean any release, spill, leak, pump, flow, escape, dumping or disposal into the environment, including waters of the United States, and City's MS4, of any Pollutant.

**Illicit Connection** shall mean any device or artifice, excluding roof drains and other similar connections, into the Municipal Separate Storm Sewer System, without a permit, through or by which an Illicit Discharge may be discharged.

Illicit Discharge shall mean any discharge to the MS4 that is not composed entirely of Storm Water except discharges pursuant to a NPDES permit, discharges which are exempt or conditionally exempt in accordance with any applicable order of the RWQCB-LA, and discharges resulting from fire fighting activities. "Illicit Discharge" includes, but is not limited to untreated wash waters from gas stations, auto repair garages and similar automotive repair facilities, untreated wastewaters from mobile auto washing, steam cleaning and mobile carpet cleaning, untreated discharges from areas where repair of machinery and equipment, including motor vehicles, which are visibly leaking oil, fluid or antifreeze, are undertaken, discharges of untreated runoff to the MS4 from storage areas of materials containing grease, oil, or other hazardous substances, and uncovered receptacles containing hazardous materials, untreated runoff from the washing of toxic materials from paved or unpaved areas, discharge of untreated runoff from washing impervious surfaces at sites of industrial activity, unless specifically required by State or local health and safety codes, and discharge from washing out of concrete trucks, discharged to the MS4.

Municipal Separate Storm Sewer System or "MS4" shall mean a conveyance or system of conveyances, including municipal streets, gutters, conduits, natural or artificial drains, channels and watercourses, or other facilities owned, operated, maintained or controlled by City and used for the purpose of collecting, storing, transporting or disposing of Storm Water.

Non-Storm Water Discharge shall mean any discharge to a municipal storm sewer system that is not composed of Storm Water. See "Illicit Discharge" above.

NPDES shall mean "National Pollutant Discharge Elimination System" established by § 402 of the Clean Water Act, 33 U.S.C. § 1342, as it, from time to time, may be amended.

Pollutant shall mean a "Pollutant" as defined in § 502(6) of the Clean Water Act, 33 U.S.C. 1362(6) or incorporated into California Water Code § 13373, discharged into water but shall not mean uncontaminated Storm Water, potable water or reclaimed water generated by a lawfully permitted water treatment facility, or any substance, the discharge of which into the MS4, through Best Management Practices, has been reduced to the maximum extent practicable. Subject to the foregoing, "Pollutant" also includes but is not limited to untreated wash waters from gas stations, auto repair garages and similar automotive repair facilities, untreated wastewaters from mobile auto washing, steam cleaning and mobile carpet cleaning, discharges from areas where repair of machinery and equipment, including motor vehicles, which are visibly leaking oil, fluid or antifreeze is undertaken, discharges of untreated runoff to the MS4 from storage areas of materials containing grease, oil, or other hazardous substances, and uncovered receptacles containing hazardous materials, commercial/municipal swimming pool filter backwash, untreated runoff from the washing of

toxic materials from paved or unpaved areas, discharge of untreated runoff from washing impervious surfaces at sites of industrial activity, unless specifically required by State or local health and safety codes, discharge from washing out of concrete trucks, or Solid Waste, discharged to the MS4.

Solid Waste shall have the meaning ascribed by Public Resources Code § 40191, as it, from time to time, may be amended.

Storm Water shall mean Storm Water runoff, snow melt runoff, and surface runoff and drainage.

#### **16.34.020 Illicit Discharges.**

No person shall cause any Illicit Discharge to enter the MS4 unless such discharge: (1) consists of non-Storm Water that is authorized by an NPDES permit; or (2) is associated with fire fighting activities; or (3) is a discharge which is exempt or conditionally exempt in accordance with an applicable order of the California Regional Water Quality Control Board - Los Angeles.

#### **16.34.030 Illicit Connections.**

No person shall use or suffer any Illicit Connection to convey an Illicit Discharge from premises of which that person is an owner or is in day-to-day charge to the MS4.

#### **16.34.040 Control of Pollutants from Sites of Industrial Activity**

A. It shall be a violation of this Chapter for any person or entity required under federal or state law to have a NPDES Storm Water Permit for a facility or activity in the City to operate such a facility or activity in the City which discharges to the City's MS4 without a NPDES Storm Water Permit.

B. Any person or entity in the City required to have a NPDES Storm Water Permit for a facility or activity in the City which discharges to the City's MS4 shall retain at such facility or activity the following documents which evidence compliance with permit requirements: (i) a copy of the Notice of Intent to comply with the State Permit to Discharge Storm Water Associated with Industrial Activity where appropriate; (ii) a waste discharge identification number issued by the SWRCB where appropriate; (iii) a storm water pollution prevention plan (iv) any Storm Water quality data; and (v) a plan containing urban runoff mitigation features where appropriate.

C. Any person or entity in the City required to have a NPDES Storm Water Permit for a facility or activity in the City which discharges to the City's MS4, upon request from a duly authorized officer of the City, shall make available to the City all of the documents described in paragraph (b) of this Section during any City Storm Water-related educational program and to demonstrate compliance with such NPDES Storm Water Permit, including but not limited to the adequacy of and compliance with any SWPPP required thereunder.

**16.34.050****Spills, Dumping and Disposal**

A. No person shall dump, deposit, release, spill, leak, pump, pour, emit, empty, discharge, inject, bury or dispose into the environment any Solid Waste or liquid waste, including any Pollutant, in or upon any part of the MS4, or upon any public or private premises in the City, or to cause, suffer, or permit any Solid Waste or liquid waste or other Pollutant to come to be located upon, in, on or under any premises in the City, except in an authorized or permitted solid waste container or at an authorized or permitted solid waste facility or publicly owned or privately owned treatment works.

B. No person shall dispose of leaves, dirt or other landscape debris into any part of the MS4.

C. No person shall dispose of any pesticide, fungicide, or herbicide banned by the United States Environmental Protection Agency or the California Department of Pesticide Regulation, or its successor, into any part of the MS4.

D. No person shall dispose of any Hazardous Substance or Hazardous Material into any Civic Litter Container.

**16.34.060****Best Management Practices.**

The owner, occupant or other person in charge of day-to-day operation of each premises within the City shall implement Best Management Practices or use Good Housekeeping Practices, as applicable, as follows:

(a) For premises with parking lots with more than 25 parking spaces exposed to Storm Water which parking lots are associated with industrial or commercial activities, according to the United States Office of Management and Budget Standard Industrial Classification Code, the owner, occupant or other person in charge of day-to-day operation shall use BMPs to reduce the discharge of Pollutants to the maximum extent practicable. Such measures may include regular sweeping or other measures, if effective.

(b) For premises where machinery or other equipment which is repaired or maintained at facilities or activities associated with industrial or commercial activities, according to the United States Office of Management and Budget Standard Industrial Classification Code, the owner, occupant or other person in charge of day-to-day operations shall use BMPs or other steps to prevent discharge of maintenance or repair related Pollutants to the MS4.

(c) For other premises exposed to Storm Water, the owner, occupant or other person in charge of day-to-day operations shall use BMPs, if they exist, or other steps to reduce the discharge of Pollutants to the maximum extent practicable, including the removal and lawful disposal of any Solid Waste or any other substance which, if it were to be discharged to the MS4, would be

a Pollutant, including fuels, waste fuels, chemicals, chemical wastes and animal wastes, from any part of the premises exposed to Storm Water.

**16.34.070 Construction Storm Water Measures.**

A. On and after January 1, 1997, each person applying to the City for a grading permit for projects with disturbed areas of five or more acres must submit satisfactory proof to City (i) that a Notice of Intent (NOI) to comply with a State Construction Activity Storm Water Permit has been filed and (ii) that a storm water pollution prevention plan has been prepared before the City shall issue any grading or building permit on the construction project.

B. On and after the effective dates of Development Construction Guidance adopted by the Regional Water Quality Control Board - Los Angeles pursuant to an effective NPDES Storm Water Permit, as adopted by the City, applicants for approval of projects to which the Development Construction Guidance applies shall prepare and submit to City, and implement appropriate wet weather erosion control and storm water pollution prevention plans which include all applicable BMPs.

**16.34.080 Violation.**

Violation of any provision of this Chapter, any storm water pollution prevention plan or any permit issued pursuant to this Chapter shall be a misdemeanor.

**16.34.090 Notices of Violation; Administrative Orders.** The Director of Public Works, or the Director's designees, may issue Notices of Violation and Administrative Orders to achieve compliance with the provisions of this Chapter, any approved storm water pollution prevention plan or any permit issued pursuant to this Chapter. Failure to comply with the terms and conditions of such a Notice of Violation or an Administrative Order shall constitute a violation of this Chapter.

**16.34.100 Nuisance.**

The violation of any provision of this Chapter is hereby declared to be a nuisance, and may be abated by the City in accordance with its authority to abate nuisances.

**16.34.110 Remedies not Exclusive.**

The remedies listed in this Chapter are not exclusive of any other remedies available to the City under any applicable federal, state or local law and it is within the discretion of the City to seek cumulative remedies.

**16.34.120 Inspections; Searches.** Whenever necessary to make an inspection to enforce any provisions of this Chapter, the enforcement officer for the City may enter any property in the City regulated by this Chapter in a manner authorized by State law.

**16.34.130**

**Fees.**

The City Council may establish fees for the services provided under this Chapter and such fees shall be fixed and established from time to time by the City Council by resolution.

**SECTION 2.** This Ordinance shall not take effect until thirty (30) days after its final passage. This Ordinance is subject to the provisions for referendum applicable to a City as set forth in § 4050 of the Elections Code of the State of California.

**SECTION 3.** If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

**SECTION 4.** The City Clerk shall certify as to the adoption of this Ordinance and shall cause a summary thereof to be published as required by Law.

**PASSED, APPROVED and ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 1996.

\_\_\_\_\_  
PAUL TALBOT, MAYOR

**ATTEST:**

\_\_\_\_\_  
FRANCES MOORE  
City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Leland C. Dolley  
City Attorney

Ref#: 5145



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AFFIDAVIT OF POSTING

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